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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
08/580,493	12/29/1995	PHILIPPE J.H. BERNA		5537

7590 11/30/2001

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EXAMINER

BRYANT, DAVID P

ART UNIT PAPER NUMBER

3726

DATE MAILED: 11/30/2001

76

Please find below and/or attached an Office communication concerning this application or proceeding.



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Notice of Non-Compliant Amendment (37 CFR 1.121)

The amendment filed on 8-23-01 is considered non-compliant because it has not been submitted in the format required under 37 CFR 1.121, as amended on September 8, 2000 (see 65 Fed. Reg. 54603, Sept. 8, 2000, and 1238 O.G. 77, Sept. 19, 2000).

- ☒ 1. The amendment does not include a clean version of the replacement paragraph(s)/section(s). 37 CFR 1.121(b)(1)(ii).
- ☐ 2. The amendment does not include a marked-up version of the replacement paragraph(s)/section(s). 37 CFR 1.121(b)(1)(iii).
- ☒ 3. The amendment does not include a clean version of the amended claim(s). 37 CFR 1.121(c)(1)(i).
- ☐ 4. The amendment does not include a marked-up version of the amended claim(s). 37 CFR 1.121(c)(1)(ii).
- ☐ 5. Other _____.
- ☐ **PRELIMINARY AMENDMENT:** Unless applicant re-submits the preliminary amendment in compliance with revised 37 CFR 1.121 within ONE MONTH of the mail date of this letter, examination on the merits may commence without entry of the originally proposed preliminary amendment. This notice is not an action under 35 U.S.C. 132, and this ONE MONTH time limit is not extendable.
- ☒ **AMENDMENT AFTER NON-FINAL ACTION:** Since the above mentioned reply appears to be *bona fide*, applicant is given a TIME PERIOD of ONE (1) MONTH or THIRTY (30) DAYS from the mailing date of this notice, whichever is longer, within which to supply the omission or correction in order to avoid abandonment. EXTENSIONS OF THIS TIME PERIOD MAY BE GRANTED UNDER 37 CFR 1.136(a).

For your convenience, attached to this correspondence is a copy of an informational flyer (MPEP Bookmark Bulletin on "Simplified Amendment Practice").

n. Chapman
Legal Instruments Examiner

Attachments:
"Changes to the patent rules"
"Attachment to notice of non-compliant amendment"

Changes to the Patent Rules

October 20, 2000

Volume 1, Issue 3

This is the third in a series of Patent News Bulletins to assist you in keeping up to date with significant rule changes which affect your area. Keep this copy to use as a bookmark for your present MPEP, or view this bulletin again on the USPTO Website.



Simplified Amendment Practice. Replacement paragraphs/sections/claims to be used. 37 CFR 1.121

The rule package "Changes to the Patent Business Goals - Final Rule," published in the Federal Register on September 8, 2000, 65 Fed. Reg. 54603 (Sept. 8, 2000), and the Official Gazette on September 19, 2000, 1238 Off. Gaz. Pat. Office 77 (September 19, 2000). The PBG rule package makes a number of revisions to Title 37.

The entire final rule may be found at the USPTO Website at <http://www.uspto.gov/web/offices/dcom/ola/pbg/index.html>.

Areas and individuals primarily affected by this rule change include:
(1) Patent Examiners and Tech Support Staff in the Technology Centers
(2) Office of Patent Publication

Any questions related to this change in practice should be directed to Joe Narcavage, Special Projects Exr., (703-305-1795) or Liz Dougherty, Legal Advisor, (703-306-3156) OPLA.

Mandatory compliance with the revised rule is not required until March 1, 2001. It is suggested that applicants adopt the revised procedures on or after November 7, 2000, in order to adjust to the changes in amendment practice.

Under the new amendment practice, amendments to the specification must be made by the submission of clean new or replacement paragraph(s), section(s), specification, or claim(s). This practice will provide a specification (including claims) in clean, or substantially clean, form that can be effectively captured and converted by optical character recognition (OCR) scanning during the patent printing process.

The new practice requires applicant to provide, in addition to the clean version of a replacement paragraph/section/claim, a marked-up version using applicant's choice of a conventional marking system to indicate the changes, which will aid the examiner in identifying the changes that have been made. The marked-up version must be based on the previous version and indicate (by markings) how the previous version has been modified to produce the clean version submitted in the current amendment. The term "previous version" means the version of record in the application as originally filed or from a previously entered amendment.

The following format is suggested in an amendment paper: (1) a clean version of each replacement paragraph/section/claim with clear instructions for entry; (2) starting on a separate page, any remarks/arguments (37 CFR 1.111); and (3) starting on a separate page, a marked-up

version entitled "Version with markings to show changes made."

Applicants will also be able to submit a clean set of all pending claims, consolidating all previous versions of pending claims from a series of separate amendments into a single clean version in a single amendment paper. This submission of a clean version of all of the pending claims will be construed as directing the cancellation of all previous versions of any pending claims. No marked-up version will be required to accompany the clean version where no changes other than the consolidation are being made.

The amended rule encourages issuance of applications with an examiner's amendment without practitioners/applicants having to file a formal amendment. Additions or deletions of subject matter in the specification, including the claims, may continue to be

made in an examiner's amendment at the time of allowance by instructions to make any change at a precise location in the specification or the claims. An examiner's amendment may incorporate a printed copy of a fax or e-mail amendment submitted by applicant. Only that part of the e-mail or fax directed to a clean version, or a portion of, a paragraph/claim to be added should be printed and attached to the examiner's amendment, with a paper copy of the entire e-mail or fax being entered in the file. The electronic version of the e-mail is not required to be saved once the printed e-mail (and any attachments) becomes part of the application file record.

*Amendment by
paragraph/claim
replacement in clean form.*



MPEP 714+ & 1302.04

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ATTACHMENT TO NOTICE OF NON-COMPLIANT AMENDMENT

Claims

It is noted that the preliminary amendment filed August 23, 2001, is not in compliance with 37 CFR 1.121, as explained in the attached papers. However, even if the amendment had been in compliance, the claims would not have been in an allowable condition. Each of claims 16-18 include new §112, 2nd paragraph problems, most notably the recitation of "a cascade of events." To expedite allowance of the application, applicant is advised to resubmit claims 16-18 as they were presented by applicant in the amendment filed May 15, 2000 (Paper No. 61). If such an amendment was submitted, all claims in the application would be allowed.

Drawings

Although applicant has submitted numerous proposed drawing corrections during prosecution of this application, none have been approved. The only drawings found to be acceptable thus far are the originally filed drawings. As set forth in the advisory action mailed June 12, 2001 (Paper No. 70), Figures 12-14 of the drawings filed January 10, 2001 (Paper No. 66) are considered to contain new matter. As a result, those drawings have not been entered. Applicant is advised to submit formal drawings of Figures 1-11 only, and to cancel any mention of Figures 12-14 in the substitute specification filed January 10, 2001 (which has been approved for entry).

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Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Examiner David Bryant whose telephone number is (703) 308-1859. The examiner can be reached Monday-Thursday from 6:30 AM to 5:00 PM.

Documents related to this application may be submitted by facsimile at any time. The Group 3720 fax number is (703) 305-3579. All faxed documents must conform with the notice published in the Official Gazette, 1096 OG 30 (October 19, 1988). Applicant is reminded to clearly mark any document as "DRAFT" if it is not to be considered a formal response.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 308-1148.



**DAVID BRYANT
PRIMARY EXAMINER
ART UNIT 3726**

November 29, 2001